

## **Senate Bill No. 2141**

### **CHAPTER 543**

An act to amend Section 8610.3 of, and to repeal, add, and repeal Section 8610.5 of, the Government Code, and to repeal and add Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, relating to nuclear powerplants.

[Approved by Governor September 16, 1998. Filed  
with Secretary of State September 17, 1998.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**SB 2141, O'Connell. Radiation: nuclear powerplants.**

(1) Under existing law, the Office of Emergency Services is required to coordinate the activities of all state agencies relating to preparation and implementation of the state nuclear powerplant emergency response plan and perform other related duties, and the State Department of Health Services is required to have the lead technical role in the ingestion pathway and recovery and emergency phases of a nuclear powerplant emergency. The department is required to maintain a radiation emergency screening team, which is required to be available for immediate response, and to maintain guidelines for the designation of medical facilities that are required to have specified capabilities.

Existing law requires local governments and nuclear facility operators to develop and maintain radiological emergency response and preparedness plans and to take other specified actions, and requires entities providing utilities to take specified actions, including sharing responsibility for nuclear powerplant emergency response with appropriate state and local jurisdictions.

This bill would extensively revise and recast those provisions and would revise the duties of the agencies and governments specified above. Specifically, the bill would require the office, if there is a nuclear powerplant accident, to coordinate information and resources to support local governments in a joint state and local government decisionmaking process, and would require the office, in consultation with the department, to review protective action recommendations developed by the utilities and local government representatives. The bill would require the department to have the lead technical role during the ingestion pathway and recovery phases, to define and maintain a radiological advisory team, and to maintain a list of medical facilities that meet statewide guidelines.

The bill would require local governments to develop and maintain radiological emergency preparedness and response plans to safeguard the public in the emergency planning zone around a

nuclear powerplant and to take specified actions within that zone. The bill would require utilities to take specified actions, including developing and maintaining radiological emergency preparedness and response plans in coordination with state and local governments and to coordinate with state and local governments in maintaining nuclear powerplant education information.

The bill would create a state-mandated local program by imposing new duties upon local governments.

(2) Existing law requires the Public Utilities Commission to develop an equitable method of assessing utilities operating nuclear powerplants for their reasonable pro rata share of state agency costs. Existing law requires utilities to pay the actual or anticipated state and local agency costs to the Controller. Existing law authorizes the expenditure of these funds in the Nuclear Planning Assessment Special Account, upon appropriation by the Legislature, for purposes of the Radiation Protection Act of 1993, as specified. Under existing law, the amounts available for reimbursement of state and local costs are cumulated biennially, as specified.

This bill would instead require the annual disbursement for state costs to not exceed the lesser of the actual costs or the maximum funding levels established by the previous law. The bill would specify the amounts to be disbursed to the office and the department and would require any unexpended funds from a year when the state and local government exercises are not evaluated by the Federal Emergency Management Agency to be carried over to the year when the exercises are evaluated. The bill would authorize advance allocations for certain anticipated local expenses, as specified.

The bill would make this funding provision inoperative on July 1, 2009, and, would repeal the provision on January 1, 2010.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions. The bill would also require that the amount of any such reimbursement be repaid to the State Mandates Claims Fund from the Nuclear Planning Assessment Special Account, as specified.



*The people of the State of California do enact as follows:*

SECTION 1. Section 8610.3 of the Government Code is amended to read:

8610.3. The Legislature hereby finds and declares as follows:

(a) The Office of Emergency Services, in consultation with the State Department of Health Services and affected counties, investigated the consequences of a serious nuclear powerplant accident for each of the nuclear powerplants in California with a generating capacity of 50 megawatts or more.

(b) This study culminated in the establishment of emergency planning zones for nuclear powerplant emergency preparedness.

(c) All state and local government nuclear powerplant emergency response plans have been revised to reflect the information provided in the study.

SEC. 2. Section 8610.5 of the Government Code is repealed.

SEC. 3. Section 8610.5 is added to the Government Code, to read:

8610.5. (a) For purposes of this section, the following definitions shall apply:

(1) "Department" means the State Department of Health Services.

(2) "Office" means the Office of Emergency Services.

(b) (1) State and local costs to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code that are not reimbursed by federal funds shall be borne by utilities operating nuclear powerplants with a generating capacity of 50 megawatts or more.

(2) The Public Utilities Commission shall develop and transmit to the office an equitable method of assessing the utilities operating the powerplants for their reasonable pro rata share of state agency costs specified in paragraph (1).

(3) Each local government involved shall submit a statement of its costs specified in paragraph (1), as required, to the office.

(4) Upon each utility's notification by the office, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, the utility shall pay this amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is continued in existence, for allocation by the Controller, upon appropriation by the Legislature, to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The Controller shall pay from this account the state and local costs relative to carrying out this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, upon certification thereof by the office.

(5) Upon appropriation by the Legislature, the Controller may disburse up to 80 percent of a fiscal year allocation from the Nuclear

Planning Assessment Special Account, in advance, for anticipated local expenses, as certified by the office pursuant to paragraph (4). The office shall review program expenditures related to the balance of funds in the account and the Controller shall pay the portion, or the entire balance, of the account, based upon those approved expenditures.

(c) (1) The total annual disbursement of state costs from the utilities operating the nuclear powerplants within the state for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, shall not exceed the lesser of the actual costs or the maximum funding levels previously established by Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, as that chapter read on January 1, 1998, subject to subdivisions (e) and (f), to be shared equally among the utilities.

(2) Of the initial annual amount of one million three hundred forty thousand dollars (\$1,340,000) for the 1999–2000 fiscal year, the sum of eight hundred three thousand dollars (\$803,000) shall be for support of the office for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of five hundred thirty-seven thousand dollars (\$537,000) shall be for support of the department for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(d) (1) The total annual disbursement for each fiscal year, commencing July 1, 1999, of local costs from the utilities shall not exceed the lesser of the actual costs or the maximum funding levels, on a site basis, previously established on a per reactor basis by Section 1 of Chapter 1607 of the Statutes of 1988, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The maximum initial annual amount available for disbursement for local costs, subject to subdivisions (e) and (f), shall be eight hundred fifty-one thousand dollars (\$851,000) for the Diablo Canyon site and one million seventy-three thousand dollars (\$1,073,000) for the San Onofre site.

(2) The amounts paid by the utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission.

(e) The amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the percentage increase in the California Consumer Price Index of the previous calendar year.

(f) Through the date specified in subdivision (g), the amounts available for disbursement for state and local costs as specified in this section shall be cumulative biennially. Any unexpended funds from a year when the state and local governments conduct a full

participation exercise, as defined in Section 350.2 of Title 44 of the Code of Federal Regulations, that is not evaluated by the Federal Emergency Management Agency, shall be carried over to the year when the state and local governments conduct such an exercise that is evaluated by the Federal Emergency Management Agency.

(g) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before July 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

(h) Upon inoperation of this section, any amounts remaining in the special account shall be refunded pro rata to the utilities contributing thereto.

SEC. 4. Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code is repealed.

SEC. 5. Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 is added to the Health and Safety Code, to read:

#### CHAPTER 4. THE RADIATION PROTECTION ACT OF 1999

##### Article 1. General Provisions

114650. (a) As used in this chapter, the following definitions shall apply:

(1) “Department” means the State Department of Health Services.

(2) “Disburse or disbursement” means a payment in advance from the Nuclear Planning Assessment Special Account, as specified in paragraph (5) of subdivision (b) of Section 8610.5 of the Government Code.

(3) “Emergency planning zone” means a zone identified in state and local government emergency plans where immediate decisions for effective public protective action from radiation may be necessary.

(4) “Exercise” means an event that tests emergency plans and organizations and that the Federal Emergency Management Agency evaluates pursuant to Part 350 (commencing with Section 350.1) of Subchapter E of Chapter I of Title 44 of the Code of Federal Regulations.

(5) “Ingestion pathway phase” means the period beginning after any release of radioactive material from a nuclear powerplant accident when the plume emergency phase has ceased, and reliable environmental measurements are available for making decisions on additional protective actions to protect the food chain. The main concern is to prevent exposure from ingestion of contaminated water or food, such as milk, fresh vegetables, or aquatic foodstuffs.

(6) “Ingestion pathway zone” means the 50-mile radius around each of the state’s nuclear powerplants in which protective actions

may be required to protect the food chain in the event of an emergency.

(7) “Interjurisdictional Planning Committee” means the planning committee, comprised of representatives of the Counties of Orange and San Diego, the Cities of Dana Point, San Clemente, and San Juan Capistrano, the Camp Pendleton Marine Corps Base, the State Department of Parks and Recreation, and the Southern California Edison Company, established as a mechanism for coordinating integrated preparedness and response in the event of an emergency at the San Onofre Nuclear Generating Station.

(8) “Local government” means a city or county that provides emergency response for a nuclear powerplant emergency.

(9) “Local jurisdiction” means an entity that provides emergency response for a nuclear powerplant emergency in accordance with the plans of a local government.

(10) “Office” means the Office of Emergency Services.

(11) “Plume emergency phase” means the period beginning at the onset of an emergency at a nuclear powerplant when immediate decisions for public protective actions are needed.

(12) “Recovery phase” means the period when actions designed to reduce radiation levels in the environment to acceptable levels for unrestricted use are commenced, and ending when all recovery actions have been completed.

(13) “Site” means the location of a nuclear powerplant and its surrounding emergency planning zone.

114655. (a) The Legislature hereby finds and declares as follows:

(1) Existing law requires the development and maintenance of a nuclear powerplant emergency response program by state and local governments based on federal and state criteria.

(2) The office, in consultation with the department and the counties, has investigated the consequences of a serious nuclear powerplant accident and has established plume emergency phase and ingestion pathway phase planning zones for each site. These zones imply mutually supportive emergency planning and preparedness arrangements by all levels of government.

(3) An integrated emergency planning program is necessary for the benefit of the citizens within the planning zones.

(b) Nothing in this chapter limits the activities of any government in carrying out its general responsibilities pertaining to the public health and the safety aspects of emergency response.

## Article 2. Responsibilities of the Office of Emergency Services

114660. (a) The office is responsible for the coordination and integration of all emergency planning programs and response plans under this chapter. If there is a nuclear powerplant accident, the office shall coordinate information and resources to support local

governments in a joint state and local government decisionmaking process.

(b) The office shall perform all of the following duties and functions:

(1) Coordinate the activities of all state agencies relating to preparation and implementation of the State Nuclear Power Plant Emergency Response Plan. The office shall be the focal point for coordinating nuclear powerplant emergency preparedness activities with local governments, other state agencies, federal agencies, and other organizations.

(2) Exercise explicit ultimate authority for allocating funds from the Nuclear Planning Assessment Special Account to local governments.

(3) Coordinate and participate in exercises of the state's nuclear emergency response plan with each site during its federally evaluated exercise.

(4) Ensure that state personnel are adequately trained to respond in the event of an actual emergency. The exercises shall include the department and other relevant state agencies.

(5) In consultation with the department, review protective action recommendations developed by the utilities and local government representatives.

(6) Coordinate planning guidance to state agencies and local governments.

(7) Ensure the development and maintenance of the State Nuclear Power Plant Emergency Response Plan and procedures necessary to carry out those responsibilities and review and approve state agency plans in draft prior to publication.

(8) Exercise discretionary authority regarding the formation of interagency agreements with state agencies having local emergency responsibilities, to ensure state agencies have updated emergency plans and trained emergency response personnel to respond during the plume emergency phase.

(9) Annually prepare and submit a report to any joint committee of the Legislature and the appropriate Senate and Assembly policy committees with jurisdiction over emergency and disaster services that summarizes all of the following:

(A) A description of the purpose of all nuclear emergency response exercises in the state involving local and state authorities, including a description of state and local roles in each exercise.

(B) An accounting of revenues from each utility and a description of expenditures of funds from the Nuclear Planning Assessment Special Account by each local government and the state.

(C) A description of all nuclear emergency response training and education efforts undertaken by the state and local agencies, and identification of any additional training and educational needs.

(D) Recommendations consistent with this chapter.

(10) Conduct a study similar to that described in Section 8610.3 of the Government Code, for any nuclear powerplant with a generating capacity of 50 megawatts or more that is proposed for licensing in this state.

Article 3. Responsibilities of the State Department of Health  
Services

114662. (a) The department shall provide technical support for plume emergency phase response. During the ingestion pathway and recovery phases, the department shall have the lead technical role and shall participate in a joint state and local government protective action decisionmaking process. The department shall prepare the ingestion pathway and recovery plan, and shall provide guidelines for local government ingestion pathway and recovery plans.

(b) The department shall maintain plans for communicating public health information during the ingestion pathway and recovery phases. The department shall also maintain a radiological advisory team, and shall maintain a list of medical facilities capable of caring for radiological casualties.

(c) The department shall perform all of the following duties and functions:

(1) Act as the responsible entity for ensuring that ingestion pathway and recovery plans are maintained and ready to be implemented, including necessary training and exercises, in coordination with affected counties and the office.

(2) Establish protective action guidelines for ingestion pathway and recovery operations with reference to the recommendations of the federal Environmental Protection Agency.

(3) Coordinate development and maintenance by counties of, and review any information database of food, water, and animal resources for, the 50-mile ingestion pathway zone around the San Onofre and Diablo Canyon nuclear powerplants.

(4) Establish measurement standards and procedures to assess radioactivity in exposure pathways, including, but not limited to, food, water, and animals, which are compatible with the federal Environmental Protection Agency's standards and procedures.

(5) Support local government nuclear emergency planning, training, exercises, and response in coordination with the office.

(6) Maintain plans for coordinating the dissemination of public health information during the recovery phase of a nuclear powerplant emergency.

(7) Define and maintain a radiological advisory team, which shall not make decisions within the jurisdiction of emergency planning and response organizations. The guidelines for the team shall include, but not be limited to, all of the following requirements:



(A) The team shall include individuals with expertise in medicine, radiation biology, radiation casualty management, emergency preparedness and disaster response, public health, and government responsibilities.

(B) The team shall be available to advise the department on its nuclear powerplant emergency planning and response.

(C) The team may provide advice and counsel regarding radiation protection safety issues.

(8) Maintain guidelines for the designation for medical facilities that would be capable of managing and caring for casualties caused by a nuclear radiation accident.

(9) Develop and maintain a list of medical facilities that meet the statewide guidelines.

#### Article 4. Responsibilities of Local Government

114677. (a) Local governments shall develop and maintain radiological emergency preparedness and response plans to safeguard the public in the emergency planning zone around a nuclear powerplant.

(b) The responsibilities of local government within an emergency planning zone include, but are not limited to, all of the following:

(1) Preemergency preparedness, including developing, maintaining, and enhancing radiological emergency response plans and procedures; maintaining emergency management organizations and operations and field response organizations; making training available to local government organizations in conjunction with utilities; providing public information and education in conjunction with utilities ; maintaining essential communications systems; and implementing other preemergency preparedness measures, as required in accordance with federal requirements and state plans and procedures.

(2) Managing plume emergency phase response actions; providing available resources for emergency response; notifying emergency workers and the public; providing emergency public information; making protective action decisions and taking protective action response, to provide public health support in conjunction with the utility and state; providing radiologic exposure control; procuring additional resources, and taking other actions needed for emergency response.

(3) Participating in a joint state and local government decisionmaking process during ingestion pathway phases and recovery phases; coordinating implementation of protective action decisions with state and federal governments; continuing emergency public information in conjunction with state and federal organizations; and providing support for security of evacuated areas.

(c) At the San Onofre Nuclear Generating Station, the Interjurisdictional Planning Committee shall identify a discussion leader to facilitate local government protective action decisions during the plume emergency phase of a nuclear powerplant emergency.

(d) A local government within an emergency planning zone may request services from a jurisdiction outside the emergency planning zone that are necessary to support an evacuated emergency planning zone population. Services requested by a local government within the emergency planning zone may include, but are not limited to, public information, congregate care, traffic management, radiological monitoring or decontamination of evacuees, and interjurisdictional coordination.

#### Article 5. Responsibilities of Entities Providing Utilities

114680. Entities providing utilities shall perform all of the following duties and functions:

(a) Any public or private utility that operates a nuclear powerplant in the state shall have a response organization that can be integrated with federal, state, and local government emergency response resources during a radiological accident.

(b) Nuclear facility operators shall develop and maintain radiological emergency preparedness and response plans in coordination with state and local government.

(c) Nuclear utilities have the primary responsibility for planning and implementing emergency measures within facility boundaries and shall do all of the following:

(1) Perform accident assessments.

(2) Prepare public protective action recommendations for decisionmakers during the plume emergency phase.

(3) Provide information to the appropriate state and local government in support of their independent assessment of offsite radiological conditions relevant to protective action decisions during the plume emergency phase.

(4) Coordinate with state and local governments in maintaining nuclear powerplant public education information.

(5) Support state and local government in nuclear powerplant planning, training, drills and exercises, and emergency preparedness efforts.

#### Article 6. Responsibilities of Other Agencies

114685. (a) The Department of Transportation shall include within its criteria for funding, repair, and construction projects, the need for adequate emergency evacuation routes.



(b) State and local law enforcement agencies shall ensure all of the following:

(1) Traffic flow plans for areas outside the emergency planning zones shall adequately reflect the possible evacuation of residents outside those zones.

(2) Traffic flow plans shall take into consideration that some evacuation routes may be impassible under certain weather conditions and shall have plans for designating alternative routes.

(3) Officers who may be needed to respond during a nuclear powerplant emergency shall receive the necessary training, including refresher courses at least once each year.

(c) Local jurisdictions within an emergency planning zone shall coordinate nuclear powerplant emergency response plans and procedures with local governments and shall participate in training, drills, and exercises as needed.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. The Controller shall transfer from the Nuclear Planning Assessment Special Account created pursuant to Section 8610.5 of the Government Code to the State Mandates Claims Fund an amount equal to the amount of any reimbursement to local agencies and school districts from the State Mandates Claims Fund made on account of this act, which amount is to be available for expenditure only upon subsequent appropriation by the Legislature notwithstanding Section 17614 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

